

<p style="text-align: right;">Page 266</p> <p>1 CONFIDENTIAL - FOR ATTORNEYS' EYES ONLY</p> <p>2 Q. While you were general manager?</p> <p>3 A. Yes, of course. He could terminate me.</p> <p>4 Q. And is that also true for the period after</p> <p>5 you were -- strike that.</p> <p>6 Was that also true while Mr. Herrera</p> <p>7 was general manager?</p> <p>8 A. I don't know.</p> <p>9 Q. You also said that Belmac -- that Ethypharm</p> <p>10 did not participate in the filings with the</p> <p>11 Spanish health ministries; is that correct?</p> <p>12 Or no?</p> <p>13 A. I don't understand the question too well.</p> <p>14 Q. I think you testified that Ethypharm did not</p> <p>15 participate in filings with the Spanish</p> <p>16 health ministries regarding Omeprazole?</p> <p>17 MR. MINGOLLA: Objection to form.</p> <p>18 Q. Did Ethypharm provide information and</p> <p>19 documentation to support what Belmac filed</p> <p>20 with the Spanish health ministry?</p> <p>21 MR. MINGOLLA: Objection. Vague.</p> <p>22 A. If I remember correctly, I said before that I</p> <p>23 was not aware of it because the registration</p> <p>24 happened of -- Omeprazole happened during</p>	<p style="text-align: right;">Page 268</p> <p>1 CONFIDENTIAL - FOR ATTORNEYS' EYES ONLY</p> <p>2 Q. In the context of the Omeprazole patent?</p> <p>3 MR. MINGOLLA: Same objection.</p> <p>4 A. When you say engineer, that's too general. I</p> <p>5 don't quite understand.</p> <p>6 Q. You have to figure out a way -- strike that.</p> <p>7 Laboratorios Belmac has to spend</p> <p>8 money to find a patent that does not infringe</p> <p>9 upon Ethypharm's patent?</p> <p>10 MR. MINGOLLA: Objection. Vague.</p> <p>11 Calls for speculation.</p> <p>12 A. What Belmac is looking for is new procedures</p> <p>13 regarding products like Omeprazole --</p> <p>14 Q. Lansoprazole?</p> <p>15 A. Yes. But with the intention of being able to</p> <p>16 provide the market a better product, more</p> <p>17 competitive in the market, and Omeprazole was</p> <p>18 the first product, the first worldwide</p> <p>19 substance, very interesting product.</p> <p>20 Q. Did the research and development cost a lot</p> <p>21 of money?</p> <p>22 MR. MINGOLLA: Objection as to form.</p> <p>23 Which research and development?</p> <p>24 A. Yes, because it's very costly to maintain a</p>
<p style="text-align: right;">Page 267</p> <p>1 CONFIDENTIAL - FOR ATTORNEYS' EYES ONLY</p> <p>2 Mr. Ayala's time.</p> <p>3 Q. So you don't know?</p> <p>4 A. I don't know for sure.</p> <p>5 Q. In addition, you were asked about patents</p> <p>6 that were prepared by Laboratorios Belmac?</p> <p>7 A. They ask me questions.</p> <p>8 Q. You were asked questions by Bentley's</p> <p>9 attorneys about patents that Laboratorios</p> <p>10 Belmac filed while you were general manager?</p> <p>11 MR. MINGOLLA: Objection.</p> <p>12 A. Yes, we did.</p> <p>13 Q. Is it expensive to do research and</p> <p>14 development to file patents?</p> <p>15 A. Yes.</p> <p>16 Q. You have to do studies and spend money for</p> <p>17 studies?</p> <p>18 MR. MINGOLLA: Objection.</p> <p>19 A. Yes.</p> <p>20 Q. And you have to spend money to figure out how</p> <p>21 to engineer around the Ethypharm patent,</p> <p>22 correct?</p> <p>23 MR. MINGOLLA: Objection. Calls for</p> <p>24 speculation.</p>	<p style="text-align: right;">Page 269</p> <p>1 CONFIDENTIAL - FOR ATTORNEYS' EYES ONLY</p> <p>2 research and development department which</p> <p>3 every time it keeps on growing. At this</p> <p>4 point I believe he has like 30 people. I'm</p> <p>5 not sure.</p> <p>6 MR. MINGOLLA: I'm going to object</p> <p>7 to that translation. I thought I heard a</p> <p>8 reference to Belmac; and if I misheard things</p> <p>9 in my English, I may be off, but I want to</p> <p>10 reserve that point.</p> <p>11 Q. Did you get authorization from Mr. Murphy to</p> <p>12 do research and development in the area of</p> <p>13 Omeprazole?</p> <p>14 A. Not in specific in terms of authorization.</p> <p>15 Q. Didn't Mr. Murphy set up the very office that</p> <p>16 you're talking about, the Galinic office?</p> <p>17 MR. MINGOLLA: Objection.</p> <p>18 Foundation.</p> <p>19 A. No.</p> <p>20 Q. When was that set up?</p> <p>21 MR. MINGOLLA: Objection.</p> <p>22 Foundation.</p> <p>23 A. The development department, you know, it was</p> <p>24 always -- when I arrive there, it was a very</p>

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<p style="text-align: right;">Page 270</p> <p>1 CONFIDENTIAL - FOR ATTORNEYS' EYES ONLY</p> <p>2 small department that with the pass of time</p> <p>3 it kept on growing. You know, it was a</p> <p>4 personal interest of mine, and for that</p> <p>5 reason I brought in Fernando Berenguer and</p> <p>6 afterwards, Mr. Herrera. Always because of</p> <p>7 the same reason because I knew they were the</p> <p>8 kind of people that would stimulate that</p> <p>9 investigation.</p> <p>10 It's Mr. Herrera was in charge of</p> <p>11 the Galinic plant, the procedures, Galinic,</p> <p>12 pharmaceuticals, and Fernando Berenguer of</p> <p>13 the scientific experimentation.</p> <p>14 Q. When these departments were created and</p> <p>15 expanded, the Galinic department, that</p> <p>16 required Jim Murphy's approval, correct?</p> <p>17 MR. MINGOLLA: Objection.</p> <p>18 Q. Do you know whether Bentley approved or</p> <p>19 disapproved of those transactions, the</p> <p>20 expansion and creation of those departments?</p> <p>21 A. No. Mr. Murphy will approve and congratulate</p> <p>22 our initiatives when he came in.</p> <p>23 MR. BOSTWICK: No further questions.</p> <p>24 MR. MINGOLLA: Let's go off the</p>	<p style="text-align: right;">Page 272</p> <p>1 CONFIDENTIAL - FOR ATTORNEYS' EYES ONLY</p> <p>2 C E R T I F I C A T E</p> <p>3</p> <p>4 COMMONWEALTH OF MASSACHUSETTS</p> <p>5</p> <p>6</p> <p>7 I, Tina M. Sarcia, a Registered</p> <p>8 Professional Reporter and Notary Public in</p> <p>9 and for the Commonwealth of Massachusetts, do</p> <p>10 hereby certify that the foregoing transcript</p> <p>11 of the deposition of CLEMENTE GONZALEZ</p> <p>12 AZPEITIA, having been duly sworn, on</p> <p>13 Wednesday, June 28, 2006, is true and</p> <p>14 accurate to the best of my knowledge, skill</p> <p>15 and ability.</p> <p>16 IN WITNESS WHEREOF, I have hereunto</p> <p>17 set my hand and seal this 11th day of June</p> <p>18 , 2006.</p> <p>19</p> <p>20</p> <p>21 Tina M. Sarcia, RPR</p> <p>22 Notary Public</p> <p>23</p> <p>24 My commission expires: March 13, 2009</p>
<p style="text-align: right;">Page 271</p> <p>1 CONFIDENTIAL - FOR ATTORNEYS' EYES ONLY</p> <p>2 record for one minute.</p> <p>3 THE VIDEOGRAPHER: The time is 3:24</p> <p>4 p.m. We're going off the record.</p> <p>5 (Recess)</p> <p>6 THE VIDEOGRAPHER: The time is 3:28</p> <p>7 p.m. on June 28, 2006. This is the end of</p> <p>8 tape number three of Clement Gonzalez</p> <p>9 Azpeitia.</p> <p>10 (Whereupon the deposition was</p> <p>11 concluded at 3:28 p.m.)</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 273</p> <p>1 CONFIDENTIAL - FOR ATTORNEYS' EYES ONLY</p> <p>2 DEPONENT'S ERRATA SHEET</p> <p>3 AND SIGNATURE INSTRUCTIONS</p> <p>4</p> <p>5 The original of the Errata Sheet has</p> <p>6 been delivered to Joseph Mingolla, Esq.</p> <p>7 When the Errata Sheet has been</p> <p>8 completed by the deponent and signed, a copy</p> <p>9 thereof should be delivered to each party of</p> <p>10 record and the ORIGINAL delivered to Dwight</p> <p>11 Bostwick, Esq. to whom the original</p> <p>12 deposition transcript was delivered.</p> <p>13</p> <p>14 INSTRUCTIONS TO DEPONENT</p> <p>15</p> <p>16 After reading this volume of your</p> <p>17 deposition, indicate any corrections or</p> <p>18 changes to your testimony and the reasons</p> <p>19 therefor on the Errata Sheet supplied to you</p> <p>20 and sign it. DO NOT make marks or notations</p> <p>21 on the transcript volume itself.</p> <p>22</p> <p>23</p> <p>24</p> <p>20 REPLACE THIS PAGE OF THE TRANSCRIPT WITH THE</p> <p>21 COMPLETED AND SIGNED ERRATA SHEET WHEN</p> <p>22 RECEIVED.</p> <p>23</p> <p>24</p>

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<p>Page 274</p> <p>1 CONFIDENTIAL - FOR ATTORNEYS' EYES ONLY 2 ATTACH TO THE DEPOSITION OF CLEMENTE GONZALEZ 3 AZPEITIA 4 CASE: ETHYPHARM V BENTLEY PHARMACEUTICALS 5 ERRATA SHEET 6 INSTRUCTIONS: After reading the transcript 7 of your deposition, note any change or 8 correction to your testimony and the reason 9 therefor on this sheet. DO NOT make any 10 marks or notations on the transcript volume 11 itself. Sign and date this errata sheet 12 (before a Notary Public, if required). Refer 13 to Page 121 of the transcript for errata 14 sheet distribution instructions. 15 16 PAGE LINE 17 CHANGE: 18 REASON: 19 CHANGE: 20 REASON: 21 CHANGE: 22 REASON: 23 CHANGE: 24 REASON: 25 26 I have read the foregoing transcript 27 of my deposition and except for any 28 corrections or changes noted above, I hereby 29 subscribe to the transcript as an accurate 30 record of the statements made by me. 31 32 CLEMENTE GONZALEZ AZPEITIA DATE</p>	

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1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF DELAWARE

3 ETHYPHARM S.A. FRANCE and :

4 ETHYPHARM S.A. SPAIN, :

5 Plaintiffs, : C.A. No. 04-1300 SLR

6 v. :

7 BENTLEY PHARMACEUTICALS, :

8 INC., :

9 Defendant. :

10 : Pages 1 - 151

11  
12 V O L U M E O N E

13  
14 Deposition of ADOLFO DE BASILIO

15 Washington, D.C.

16 Wednesday, August 2, 2006

17  
18  
19 JOB No. 175557

20 Reported by: George W. Tudor, CSR

21 T. J. O'Toole, CLVS

Page 2

August 2, 2006  
9:30 a.m.

Deposition of ADOLFO DE BASILIO, held at

Baach, Robinson & Lewis, PLLC  
1201 F Street, N.W.  
Suite 500  
Washington, D.C. 20004

Pursuant to notice, before George W. Tudor, CSR,  
a Notary Public of the District of Columbia, and  
T. J. O'Toole, Certified Legal Video Specialist.

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## NOTE

Q. & A. denote interpreted questions and answers.  
THE WITNESS: Answer in English by the witness.  
THE INTERPRETER: Comments or clarifications by  
the interpreter.

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## PROCEEDINGS

THE VIDEOGRAPHER: On the record with  
tape number one of the videotape deposition of  
Adolfo de Basilio, taken by the defendant in the  
matter of Ethypharm S.A. France and Ethypharm  
S.A. Spain versus Bentley Pharmaceuticals,  
Incorporated, in the United States District Court  
for the District of Delaware, case number 04-1300  
SLR.

This deposition is being held at the  
law offices of Baach, Robinson and Lewis, located  
at 1201 F Street, Northwest, in Washington, D.C.  
on August 2nd, 2006 at approximately 9:33 a.m.  
My name is T. J. O'Toole, representing  
Esquire Deposition Services. I am a Certified  
Legal Video Specialist. The court reporter is  
George Tudor, also represented Esquire Deposition  
Services.

Will counsel please identify themselves  
and indicate which party they represent?

MR. BOSTWICK: Dwight Bostwick, on

2 (Pages 2 to 5)

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1 before of the plaintiffs.

2 MR. STEWART: Craig Stewart, on behalf  
3 of Bentley Pharmaceuticals, Incorporated, and  
4 with me is Scott Magee.

5 THE VIDEOGRAPHER: Thank you.

6 Will the interpreter please identify  
7 himself for the record.

8 THE INTERPRETER: My name is Carlos De  
9 Hoyos. I represented Advanced Communications  
10 Translations.

11 THE VIDEOGRAPHER: Will the court  
12 report please swear in the interpreter.

13 Thereupon,

14 CARLOS DE HOYOS,  
15 duly affirmed that we would well and truly  
16 translate the questions and answer in this  
17 deposition from English to Spanish and Spanish to  
18 English to the best of his ability.

19 THE VIDEOGRAPHER: Now, will the  
20 interpreter please assist the court reporter in  
21 swearing in the witness.

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1 question, please tell me.

2 A. Agreed.

3 Q. And obviously, if you don't indicate to  
4 me that you have difficulty with a question, I  
5 will assume that you do understand the question.

6 Do you understand?

7 A. I'm not totally sure. Can you explain  
8 it to me?

9 Q. Sure. Our objective is to get your  
10 best recollection and your truthful answers to my  
11 questions. If you don't understand my question,  
12 it will be difficult, obviously, to get your best  
13 recollection and truthful answers.

14 A. That is obvious. Now I understand.

15 Q. Have you had your deposition taken in  
16 the United States before?

17 A. No, never.

18 Q. The stenographer, who is seated to your  
19 right, is taking down your testimony, and he will  
20 need you to provide a verbal response to my  
21 questions, yes, no or whatever the answer is, and

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1 Thereupon,

2 ADOLFO DE BASILIO,  
3 a Witness, called for oral examination by counsel  
4 for the Plaintiff, having been duly sworn by the  
5 Notary Public through the interpreter, was  
6 examined and testified as follows:

7 EXAMINATION BY COUNSEL FOR THE PLAINTIFF  
8 BY MR. STEWART:

9 Q. Mr. De Basilio, would you please state  
10 your full name and address for the record.

11 A. Adolfo de Basilio, Peda Santa, number  
12 18, Madrid, Spain.

13 Q. As you have heard, Mr. De Basilio, my  
14 name is Craig Stuart, and I represent the  
15 defendant in this case, Bentley Pharmaceuticals,  
16 Incorporated. I'll be asking you a number of  
17 questions today, and probably for at least a  
18 little bit tomorrow, regarding your involvement  
19 with Ethypharm Spain. Understood?

20 A. Yes.

21 Q. If at any time you do not understand my

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1 expressions such as "um-hmm," "uh-uh" and shakes  
2 of the head make for a confusing transcript. Do  
3 you understand?

4 A. I understand.

5 Q. Okay. During the course of the day, we  
6 will take several breaks from the questioning,  
7 and at any time if you feel the need to take a  
8 break, please say so. The only exception to that  
9 is that we will not take a break while one of my  
10 questions is pending to you.

11 A. Thank you for giving me the chance to  
12 go out when I need it, and I understand that I  
13 won't do that while the question is pending.

14 Q. And as your counsel, Mr. Bostwick, may  
15 have explained, when we take a break, by  
16 agreement, neither -- you will not be permitted  
17 to discuss the substance of your testimony with  
18 Mr. Bostwick, and the same -- the substance of  
19 your testimony with Mr. Bostwick.

20 A. I agree.

21 Q. And one last point regarding procedure.

3 (Pages 6 to 9)



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1 We have found over the course of these  
2 depositions that it is better to speak in  
3 relatively short sentences so that the translator  
4 can accurately translate my questions and your  
5 answers.

6 A. Understood.

7 Q. This is a technique that I have not  
8 mastered very well, so I speak with authority  
9 when I say it is much better if you are able to  
10 do it.

11 And finally, you understand that your  
12 testimony is under oath?

13 A. Of course.

14 Q. And that there are penalties under  
15 United States law for testimony that is not  
16 truthful.

17 A. Even for a non -- a person who doesn't  
18 belong to the U.S.?

19 Q. In the appropriate circumstances, yes.

20 Okay. First, how old are you?

21 A. Fifty-six years old.

1 Q. Would you pronounce the name of your  
2 business one more time?

3 A. AyDyAyMyA.

4 THE WITNESS: Do you want me to explain  
5 what it means?

6 THE INTERPRETER: Do you want me to  
7 explain?

8 BY MR. STEWART:

9 Q. That was my next question.

10 A. Everybody asks me this. "Adama" means  
11 diamond, and it's registered under a Russian  
12 corporation, so therefore, I cannot register it.  
13 And I look in the register how could I register  
14 the name using dashes, periods, commas, and not  
15 even then. You couldn't use those things for a  
16 registered name.

17 In Spanish, the Y stands for "and."

18 And we were particularly interested in  
19 registering every one of the capital letters,  
20 because those are the initials of all the  
21 partners.

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1 Q. And by whom are you presently employed?

2 A. I work for my own.

3 Q. You work for your own business?

4 A. Yes.

5 Q. Does your business have a name?

6 A. Yes.

7 Q. And what is the name?

8 A. Maybe I should write it down for you.  
9 It's a little bit complicated. (Writing)

10 THE INTERPRETER: Capital A-Y, capital  
11 D-Y, capital A-y, capital M-y, capital A, and  
12 another word, S-L.

13 Q. How do you pronounce that?

14 A. AyDyAyMyA.

15 Q. SL?

16 A. SL.

17 Q. What does SL mean?

18 A. Limited society.

19 THE INTERPRETER: It's like an LTD,  
20 something like that.

21 BY MR. STEWART:

1 Q. So who are your partners?

2 A. We have a pilot, we have a jeweler and  
3 we have a specialist in information and myself.

4 Q. So there are four partners in the  
5 association?

6 A. And the fifth is represented by one of  
7 them, because he's a minor.

8 Q. Is the minor a child of one the -- of  
9 one of your partners?

10 A. Yes.

11 Q. And what is the nature of the business?

12 A. If you don't laugh, I can tell you what  
13 it is.

14 Q. I can't promise that.

15 A. We are engaged in the business of  
16 aviation, jewelry and pharmaceuticals. And  
17 that's why I asked you not to laugh. The notary,  
18 when we registered these, couldn't believe it, so  
19 I told him, "Here is the pilot, here is the  
20 jeweler," and this is what we do.

21 Q. Very interesting. Is Ethypharm S.A.

4 (Pages 10 to 13)

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Page 16

1 a -- withdraw that.  
 2 Does your business have any business  
 3 dealings with Ethypharm?  
 4 A. Yes.  
 5 Q. And describe, please, the nature of  
 6 those business dealings.  
 7 A. Looking for clients for the products of  
 8 Ethypharm.  
 9 Q. And have you found any clients for  
 10 Ethypharm?  
 11 A. Yes.  
 12 Q. And please tell me approximately how  
 13 much money do you get from Ethypharm on an annual  
 14 basis?  
 15 MR. BOSTWICK: Objection, form.  
 16 I said "Objection, form."  
 17 THE WITNESS: I didn't hear.  
 18 MR. BOSTWICK: When -- there are times  
 19 today when I may object to a question for legal  
 20 purposes, but unless I instruct you specifically  
 21 not to answer, you may answer Mr. Stuart's

1 A. Most probably.  
 2 Q. And when did you first start having  
 3 business -- business relations with Ethypharm  
 4 with AyDyAyMyA?  
 5 A. I think that the first time was in  
 6 November of that same year.  
 7 Q. November of 2004?  
 8 A. I'm certain that it was -- that we  
 9 started in July, and then in November, we started  
 10 dealings with this -- I am not sure about the  
 11 year, but...  
 12 Q. Well, let's see if we can get the year  
 13 correct. If it were November of 2005, that would  
 14 be less than a year ago.  
 15 A. Then it has to be 2004.  
 16 Q. What was the business that you were  
 17 asked to do for Ethypharm in November of 2004?  
 18 Let me withdraw that.  
 19 Describe the nature of the business  
 20 that you were performing for Ethypharm in  
 21 November of 2004.

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1 questions. Therefore, you may answer this  
 2 question.  
 3 A. Can you repeat the question?  
 4 (The record was read by the reporter.)  
 5 A. This is a question that I would not  
 6 know at the moment. I could risk and give you an  
 7 approximate answer.  
 8 Q. An approximation would be fine.  
 9 A. I may be mistaken, but it could be a  
 10 figure ranging in between sixteen, twenty euros.  
 11 THE WITNESS: Twenty thousand.  
 12 THE VIDEOGRAPHER: -- thousand euros.  
 13 Q. When did you start -- when did you  
 14 start AyDyAyMyA?  
 15 A. A little bit over a year.  
 16 Q. So sometime the end of 2004?  
 17 A. I remember that it was -- we registered  
 18 the company in the month of July.  
 19 Q. Of 2005?  
 20 A. So therefore, it may be two years.  
 21 Q. So registered in July of 2004?

1 A. Tramadol, Gelos Laboratories, and there  
 2 may be another --  
 3 THE WITNESS: No, there is.  
 4 THE INTERPRETER: -- and there is  
 5 another.  
 6 Q. And were these companies that you  
 7 contacted on behalf of Ethypharm?  
 8 A. Yes.  
 9 Q. And what were you asking these  
 10 companies to do?  
 11 A. We were offering the Ethypharm  
 12 products.  
 13 Q. For them to purchase or for them to  
 14 manufacture?  
 15 A. In this case, for them to buy.  
 16 Q. And just briefly, what were the  
 17 products that they were asked to buy?  
 18 A. The current list of products that  
 19 Ethypharm was offering at that time. I do not  
 20 remember the full list.  
 21 Q. Did that list include omeprazole?

5 (Pages 14 to 17)

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1 A. Probably not. But I'm not sure.

2 Q. What business were -- what business is  
3 tramadol and Gelos Laboratory in?

4 A. Gelos is the number one laboratory for  
5 the production of tramadol.

6 THE WITNESS: No.

7 THE INTERPRETER: For the production  
8 of?

9 Parasitamol and the painkillers and  
10 also -- and tramadol is also in that business.

11 MR. BOSTWICK: I'm sorry, did you say  
12 painkillers?

13 THE INTERPRETER: Yes.

14 THE WITNESS: Analgesics.

15 Q. Did Ethypharm hire you as a consultant  
16 for purposes of this lawsuit?

17 A. Yes, for this purpose.

18 Q. And when did they -- when did Ethypharm  
19 hire you?

20 A. About two years, approximately.

21 Q. And how much has Ethypharm paid you in

1 close to a hundred percent. That's why I'm  
2 saying it could be half and half.

3 Q. By whom were you employed before you  
4 started AyDyAyMyA?

5 A. I was unemployed.

6 Q. And how many years were you unemployed?  
7 And I'm interested in the dates, the approximate  
8 dates.

9 A. From July 2, '03 to July of 2005.

10 Q. Or 2004?

11 A. 2005.

12 Q. Okay, because -- we have a little  
13 problem. My memory of your testimony is that you  
14 believe that you registered AyDyAyMyA in July of  
15 2004. Is that true?

16 A. I believe I remember that date.

17 Q. So when you say that you were  
18 unemployed until July of 2005 --

19 A. Yes.

20 Q. -- does that mean that you were not  
21 having any income from AyDyAyMyA?

Page 19

Page 21

1 your position as consultant?

2 A. The figure that I mentioned before is  
3 included. Is inclusive.

4 Q. So since two thousand -- November of  
5 2004, approximate -- you have received  
6 approximately 16 to 20,000 euros from Ethypharm;  
7 is that correct?

8 A. Yes. The company, AyDyAyMyA, is the  
9 one that has received that amount.

10 Q. And approximately how much of that  
11 amount is attributable to your consulting  
12 services in connection with this lawsuit?

13 A. That question is a little more  
14 difficult. Maybe half and half.

15 Q. Maybe 75 percent - 25 percent?

16 MR. BOSTWICK: Objection.

17 A. I said half and half as a tentative  
18 question, but I would have to look it up. May I  
19 add?

20 Q. Sure.

21 A. Obviously as a consultant, it's not

1 A. Yes. I am unemployed. I'm a partner  
2 with the company, but the company is the one who  
3 is making -- the company is making the business,  
4 but I'm unemployed.

5 Q. Are you an employee of AyDyAyMyA now?

6 A. No.

7 Q. How do you receive money from  
8 AyDyAyMyA?

9 A. I didn't say that I was getting money  
10 from AyDyAyMyA.

11 Q. Do you receive money from Ethypharm?

12 A. Personally -- me, personally, no. The  
13 company, AyDyAyMyA, yes.

14 Q. Do you have any -- what is your  
15 financial arrangement with AyDyAyMyA with respect  
16 to the money that you have brought in from  
17 Ethypharm?

18 A. Like any other commercial enterprise,  
19 when there are benefits, partners would withdraw.

20 MR. STEWART: Would --

21 THE INTERPRETER: Withdraw it.

6 (Pages 18 to 21)

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1 Q. So just to confirm, you have been a  
2 consultant for Ethypharm since approximately  
3 November of 2004; is that correct?  
4 A. Yes.  
5 Q. But have you taken a draw or any  
6 distribution from AyDyAyMyA for your services?  
7 A. Not directly, no.  
8 Q. Are you currently receiving  
9 unemployment compensation?  
10 A. No.  
11 Q. Why haven't you taken any money for the  
12 services that you personally have performed for  
13 Ethypharm?  
14 A. The business is just beginning, and  
15 when a business of this type starts, they  
16 generally have losses, and this is the way this  
17 business is operating right now.  
18 Q. What is your current position with  
19 AyDyAyMyA?  
20 A. Partner.  
21 Q. Who is the manager of AyDyAyMyA?

1 Q. Were you employed by Ethypharm Spain  
2 continuously from 1987 up to July of 2003?  
3 THE INTERPRETER: Were you employed --  
4 I'm sorry. (Speaking in Spanish.)  
5 A. Yes.  
6 Q. And where were you employed prior to  
7 your employment with Ethypharm Spain?  
8 A. Gr□nenthal Andromaco.  
9 THE INTERPRETER: G-R-š, with an  
10 umlaut, N-E-N-T-H-A-L, (A-N-D-R-O-M-A-C-O),  
11 Andromaco.  
12 Q. When did you start your employment at  
13 Gr□nenthal (Andromaco)?  
14 A. Five years before.  
15 Q. So 1982?  
16 THE WITNESS: Five.  
17 THE INTERPRETER: Yes, five years.  
18 Q. What business -- explain, please, the  
19 name that you give to us, Gr□nenthal (Andromaco).  
20 A. Can you repeat the question?  
21 Q. Yes. I don't understand the name of

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1 A. One of the partners.  
2 Q. Who is that?  
3 A. Alicia, Vildosola.  
4 THE INTERPRETER: A-L-I-C-I-A,  
5 V-I-L-D-O-S-O.  
6 THE WITNESS: Vildosola.  
7 THE INTERPRETER: Plus an L-A at the  
8 end. V-I-L-D-O-S-O-L-A.  
9 BY MR. STEWART:  
10 Q. And is Alicia a man or a woman?  
11 A. It's a woman. She's a woman.  
12 Q. What is your partnership share of  
13 AyDyAyMyA?  
14 A. Twenty percent.  
15 Q. Where were you employed prior to July  
16 of 2003?  
17 A. I was the general director of Ethypharm  
18 Spain. And Portugal.  
19 Q. And when did you first start working at  
20 Ethypharm Spain?  
21 A. 1987.

1 the company that you have provided to us. It  
2 sounds as though there are -- one name is a  
3 German name, the other name is a Spanish name.  
4 Would you explain, please?  
5 A. Gr□nenthal is German and Andromaco is  
6 Spanish, Gr□nenthal had 40 percent; Andromaco had  
7 60 percent.  
8 Q. And did it conduct its business under  
9 Andromaco or under Gr□nenthal?  
10 A. It used to be Andromaco, and that's why  
11 I put it in the parenthesis, but now Gr□nenthal  
12 has bought a hundred percent of the company.  
13 Q. If I refer to the business as  
14 Andromaco, will you understand that I'm meaning  
15 the business that was named Andromaco and is now  
16 Gr□nenthal?  
17 A. Yes. It used to be a lot easier for  
18 everybody.  
19 Q. And before you were employed by  
20 Andromaco, who were you employed by?  
21 A. Abello Laboratories.

7 (Pages 22 to 25)



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1 Q. Let go back to Andromaco. What  
2 business was Andromaco in?  
3 A. Several areas.  
4 Q. Tell me what they were.  
5 A. Cardiovascular, digestive, nervous  
6 system, hematology, dermatology; I cannot  
7 remember. This is more than twenty years ago.  
8 Q. Was Andromaco a pharmaceutical company?  
9 A. Yes.  
10 Q. No jewelry, no airplanes.  
11 That's a joke.  
12 THE WITNESS: I shouldn't answer to  
13 that. Okay.  
14 Q. What was your position with Andromaco?  
15 A. Director of licensing and new products.  
16 Q. And what business was Laborotorios  
17 Abello involved in?  
18 A. Also multiple areas.  
19 Q. Was Laborotorios Abello a  
20 pharmaceutical company?  
21 A. Yes.

1 question, would you indicate that, please.  
2 A. I will try to avoid speaking in  
3 English. This was just to help you out.  
4 MR. STEWART: That wasn't a criticism.  
5 I'm happy if you want to speak in English, but I  
6 think we should note it.  
7 THE INTERPRETER: I understand it's  
8 not a criticism; I just want to make everything  
9 work fine with our excellent translator.  
10 Q. Describe, please, your educational  
11 background from secondary school -- in the U.S.,  
12 high school -- through college and any  
13 postgraduate work.  
14 A. You really want to know?  
15 Q. I really do, yes. Just to be clear,  
16 the -- for the moment, simply where you attended  
17 school, what degree you obtained and the  
18 principal program of study.  
19 A. I will try to make it as short as  
20 possible. I went to two schools, one Spanish,  
21 another English. So I did high school -- what

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1 Q. And what was your position at  
2 Laborotorios Abello?  
3 A. I was a technician in the R and D  
4 department.  
5 THE INTERPRETER: I'm sorry,  
6 scientific department. Science department.  
7 Q. How long were you -- when did you start  
8 your position -- your job with Laborotorios  
9 Abello?  
10 A. The same answers, five years before.  
11 Take away five years.  
12 Q. So it would be -- you started at  
13 Andromaco in 1982, so 1977?  
14 A. 1977, '78.  
15 Q. Thank you.  
16 THE WITNESS: I would rather say '78,  
17 no?  
18 Q. '78.  
19 MR. STEWART: For purposes of the  
20 stenographer taking down the testimony, if Mr. De  
21 Basilio speaks directly in response to my

1 you say here high school, primary education up to  
2 right before you go into college.  
3 Q. Yes.  
4 A. And also in the British college, I also  
5 did all until the what's called the O levels,  
6 which is equivalent also just before you go into  
7 college.  
8 Q. So were you in an English -- was it  
9 called the English School?  
10 THE WITNESS: British Consul School.  
11 Q. British Consul School. And where was  
12 the British consul school?  
13 A. In Madrid.  
14 Q. And approximately how many years were  
15 you in the British Consul School?  
16 A. I think seven? No, excuse me, there  
17 were eleven.  
18 Q. And how old -- approximately how old  
19 were you when you left the British Consul School?  
20 A. I went there from five years old to  
21 till seventeen years old.

8 (Pages 26 to 29)

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1 Q. And after the British Consul School,  
2 where did you go?  
3 A. The Technical -- Superior Technical  
4 School of Telecommunications Engineering.  
5 Q. And where was that located?  
6 A. In Madrid.  
7 Q. When you were at the British Consul  
8 School, were your classes conducted in English?  
9 A. Only English.  
10 Q. And is it fair to say that you speak  
11 and understand English?  
12 A. Not perfectly, but...  
13 Q. Who does?  
14 Anyway, and is it fair to say that you  
15 also write -- you also write English?  
16 A. Yes. Excuse me.  
17 Q. Okay. And when did you graduate from  
18 the Superior Technical School?  
19 A. I decided to join the pharmaceutical  
20 school in the Faculty for Pharmaceutical Studies.  
21 Q. So how many years were you in the

1 Q. And what was the degree that you  
2 obtained?  
3 A. Bachelor in Pharmacy.  
4 Q. Did you attend any further -- any  
5 additional schools?  
6 A. Yes, many.  
7 Q. Briefly, if you could describe what  
8 school and what areas.  
9 A. I studied gemology. Gems.  
10 Q. When did you attend that school?  
11 A. From 1975 to '77. I'm a diamond  
12 expert. In 1978.  
13 Q. I'm sorry, 1978?  
14 THE INTERPRETER: Studied to be an  
15 expert on diamonds.  
16 Q. And what other schools did you attend?  
17 A. Pharmaceutical law.  
18 Q. Where did you study that?  
19 A. In the Chamber of Commerce of Madrid.  
20 Q. When?  
21 A. Around 1990.

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1 technical school before you went to the  
2 pharmaceutical area?  
3 A. I was two years in technical school,  
4 and then one year doing both simultaneously.  
5 Q. And how many years did you study  
6 pharmacy?  
7 A. Six.  
8 Q. Six. Was your studies in pharmacy part  
9 of the Superior Technical School, or was it a  
10 separate college or separate institution?  
11 A. And they're not related at all. One is  
12 telecommunications, engineering and information  
13 field and the other is a pharmaceutical school.  
14 Q. What was the name of the pharmaceutical  
15 school?  
16 A. Pharmacy Faculty of the Complutense  
17 University, C-O-M-P-L-U-T-E-N-S-E, Complutense.  
18 Of Madrid.  
19 Q. Did you graduate from the Complutense  
20 University?  
21 A. Yes.

1 Q. And did you receive a certificate from  
2 that program?  
3 A. Yes, of course.  
4 Q. Why did you study pharmaceutical law?  
5 A. To better myself in my profession.  
6 Q. Any other schools?  
7 A. Business administration.  
8 Q. And where did you study business  
9 administration?  
10 A. Also in the Chamber of Commerce of  
11 Madrid.  
12 Q. For how long did you study business  
13 administration?  
14 A. It was a course from October to June.  
15 Q. Do you recall the year?  
16 A. I'm a little bit confused between  
17 pharmaceutical law and business administration.  
18 I think that I did the business administration in  
19 the '90s and the pharmaceutical law a little bit  
20 later.  
21 Q. So maybe 1992, '93?

9 (Pages 30 to 33)

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1 A. I didn't expect that this type of exam.  
 2 I thought we were going to talk some other  
 3 things.  
 4 The most important thing, and something  
 5 I was leaving aside, is that I'm a professor on  
 6 gemological crystallography, and I did that soon  
 7 after 1978.  
 8 Q. You say professor. Do you teach?  
 9 A. Yes.  
 10 Q. Where do you teach?  
 11 A. In the Gemological Institute -- Spanish  
 12 Gemological Institute at the university and in  
 13 other schools.  
 14 Q. University of what?  
 15 A. Mines and Geology.  
 16 Q. Is that in Madrid?  
 17 A. And also outside Madrid.  
 18 Q. I understand that you may not remember  
 19 the dates precisely of the education.  
 20 A. I could have brought in my curriculum.  
 21 Q. That would have been a good idea. But,

1 Complutense University.  
 2 Q. When did you get your master's degree?  
 3 A. In the year 1975. But I'm not totally  
 4 sure.  
 5 Q. Any other courses?  
 6 A. Yes, but I can't remember.  
 7 Q. Is there any course of study that you  
 8 consider to be significant that you haven't told  
 9 me about?  
 10 A. I cannot be totally sure; perhaps  
 11 sometimes I can remember or could remember  
 12 something, but at this point I cannot.  
 13 Q. Other than the course in pharmaceutical  
 14 law that you took from the Chamber of Commerce in  
 15 Madrid, have you taken any other courses in law?  
 16 A. No. That, I'm certain. I would love  
 17 to have more study of law, which I have found it  
 18 as a very useful tool in life.  
 19 Q. I want to return now to your employment  
 20 with Ethypharm.  
 21 MR. BOSTWICK: Craig, is this a logical

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1 anyway, if during the break you want to think  
 2 about the dates, I would be happy to take answers  
 3 afterwards.  
 4 A. I don't think that it's easy to  
 5 remember these things, because we're talking  
 6 about twenty years ago, but I can send you a  
 7 curriculum if you want.  
 8 Q. Okay. All right.  
 9 In the business administration program,  
 10 did you get a certificate?  
 11 A. Yes.  
 12 Q. Have you taken any other courses  
 13 related to pharmaceuticals or pharmacology?  
 14 A. Yes.  
 15 Q. And describe if you would, briefly, the  
 16 nature of those courses and how many.  
 17 A. I did a master's in infrared  
 18 spectrometry.  
 19 Q. Spectrometry. And where did you do  
 20 that master's degree?  
 21 A. In the pharmacy faculty of the

1 time to take a five-minute break? Or is that  
 2 appropriate?  
 3 MR. STEWART: It's fine.  
 4 THE VIDEOGRAPHER: The time is  
 5 10:41:07. Off the record.  
 6 (Brief recess.)  
 7 THE VIDEOGRAPHER: On the record. The  
 8 time is 1:55:36.  
 9 BY MR. STEWART:  
 10 Q. Please tell us, Mr. De Basilio, by whom  
 11 were you employed when you joined -- when you  
 12 joined Ethypharm? That is, who hired you?  
 13 A. Mr. LeDuc and Mr. DeBregeas.  
 14 Q. And at that time, were these two  
 15 gentlemen the fifty percent -- each had fifty  
 16 percent of the company?  
 17 A. Yes.  
 18 Q. What position did you hold when you  
 19 were hired?  
 20 A. General director.  
 21 Q. Of what company?

10 (Pages 34 to 37)

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1 A. Ethypharm Spain and Portugal. And  
2 South America. And Latin America, but that  
3 didn't happen. It was enough work we have in  
4 Portugal and Spain, so Latin America didn't  
5 happen.

6 Q. Didn't happen when?

7 A. I was hired for Spain, Portugal and  
8 Latin America. But what actually happened is  
9 that I was devoted only to Spain and Portugal.

10 Q. Now, your title was General Director of  
11 Ethypharm Spain.

12 Let me withdraw that.

13 As one of your titles, did you have the  
14 title of General Director, Ethypharm Spain?

15 A. I don't understand the question.

16 Q. What is the name of Ethypharm's Spanish  
17 subsidiary which operated in Spain?

18 A. Ethypharm, S.A.

19 Q. The parent company is also known as  
20 Ethypharm, S.A.; is that correct?

21 A. In that time, yes.

1 A. I'm sorry, that was not my territory,  
2 so I don't really know.

3 Q. Now, your title was General Director of  
4 Ethypharm Spain; is that correct?

5 A. Yes.

6 Q. You're hesitating.

7 A. I don't understand why you're asking me  
8 that question.

9 Q. I'm trying to make a distinction, if  
10 there is a distinction, between your title of  
11 General Director of Ethypharm Spain and your  
12 testimony that you also were General Director of  
13 Portugal.

14 A. Now I understand the question.

15 Q. So did you have a separate position as  
16 General Director of Ethypharm Portugal?

17 A. No. I was General Director for Spain,  
18 Portugal and Latin America.

19 Q. But Ethypharm had no office in  
20 Portugal; is that correct?

21 MR. BOSTWICK: Object to time frame.

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1 Q. So as to hopefully eliminate confusion,  
2 can we refer to the Spanish subsidiary as  
3 Ethypharm Spain?

4 A. I think it's a good idea.

5 Q. Did Ethypharm -- and let me withdraw  
6 that. And similarly, when I'm referring to the  
7 parent company, I'll refer to Ethypharm France.  
8 Is that acceptable?

9 A. I think it's correct.

10 Q. Did Ethypharm France have a subsidiary  
11 in Portugal?

12 A. No.

13 Q. Was there a company called Ethypharm,  
14 S.A. Portugal, or in substance, Portugal?

15 A. No.

16 Q. Was there ever a subsidiary of  
17 Ethypharm France that was located in South  
18 America?

19 A. Yes.

20 Q. And when was that, to your knowledge?  
21 When did such a subsidiary come into existence?

1 BY MR. STEWART:

2 Q. Time frame, 1987 through 2003.

3 A. I'm lost.

4 Q. Mr. Bostwick asked me to put a time  
5 frame to my question.

6 A. So then your question is still the  
7 same?

8 Q. It is. And so was there -- did  
9 Ethypharm have an office, an office in Portugal  
10 from 1987 through July, 2003?

11 A. No.

12 Q. And one thing I don't understand is --  
13 concerns Ethypharm Latin America. Would you  
14 explain what responsibilities, if any, you had  
15 for Ethypharm operations in Latin America?

16 A. My contract said that I was being hired  
17 as General Director for Spain, Portugal and Latin  
18 America. But as I said before, my functions for  
19 Latin America were never concretized.

20 Q. Did you receive a paycheck at Ethypharm  
21 Spain?



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1 A. Yes.

2 Q. And were you paid by Ethypharm France  
3 or by Ethypharm Spain?

4 A. Ethypharm Spain.

5 Q. And to your knowledge, was Ethypharm  
6 Spain one hundred percent controlled or owned by  
7 Ethypharm France?

8 MR. BOSTWICK: Objection to form.

9 MR. STEWART: You may answer.

10 A. Well, I can answer very precisely.  
11 Ninety-eight percent was owned by Ethypharm  
12 France.

13 Q. Who owned the other two percent?

14 A. DeBregeas and LeDuc. According to  
15 Spanish law, you have to have three partners.

16 Q. Did you ever own any shares of  
17 Ethypharm France or Ethypharm Spain?

18 A. I tried, but I couldn't.

19 Q. I would now like to ask you to describe  
20 your duties at Ethypharm Spain, and I would also  
21 like you to tell me who the employees were at

1 because I did the same thing from the beginning  
2 to the end.

3 Q. In that case, please tell me your  
4 duties.

5 A. As I said, I was hired as General  
6 Director, but it was actually related to  
7 commercial activities in these markets, and I had  
8 also the responsibility of monitoring the  
9 registries in the sanitary ministry.

10 Q. Can we just pause for a moment? I have  
11 heard that there is an agency of the Spanish  
12 government that, at least in one translation, it  
13 is the Spanish Agency for -- the Spanish Drug and  
14 Health Products Agency. Spanish Drug and Health  
15 Products Agency.

16 A. Yes.

17 Q. All right. Is that the agency that you  
18 were referring to?

19 A. May I explain?

20 Q. Please.

21 A. The Spanish Agency for the Sanitary

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1 Ethypharm Spain. And because we are dealing with  
2 a long time period, I would ask your help to --  
3 that you would divide your answer into shorter  
4 time periods, if that would be helpful to get an  
5 accurate picture of the company.

6 MR. BOSTWICK: I'm going to object to  
7 the form, to the extent that that was a question.

8 MR. STEWART: It wasn't a question; it  
9 was a predicate.

10 Q. So tell me first your duties at  
11 Ethypharm Spain.

12 A. Before that, I was precisely going to  
13 tell you to help me, making questions about more  
14 specific, short periods of time, because it's a  
15 very large --

16 THE WITNESS: I can answer to the first  
17 one.

18 Q. Let me divide that first question into  
19 a couple of parts. Your duties at Ethypharm  
20 Spain from 1987 through 1994.

21 A. I don't understand the question,

1 Products -- Medicinal Sanitary Products was  
2 created after the bill for medical products in  
3 the mid-'80s, or maybe early '90s. I think it  
4 was actually in 1992.

5 Q. Was that the Ley del Medicamento?

6 A. Yes.

7 Q. And if I suggested that the Ley del  
8 Medicamento was effective on December 20, 1990,,  
9 does that sound approximately the effective date?

10 A. I can probably say that we were in the  
11 right date.

12 Q. So the agency that you were referring  
13 to was created by that law; is that right?

14 A. Yes. The Sanitary Ministry used to  
15 have control of everything, but then when the  
16 Agency for Medicines was created and became an  
17 agency within this ministry.

18 Q. I have seen that there is a -- I have  
19 seen one document that refers to Agencia Espaol  
20 de Medicamento. Is that the name of the agency  
21 that was created by the 1990 law?

12 (Pages 42 to 45)

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1 A. Yes. If that's the precise date, yes.  
 2 MR. STEWART: I'm asking the witness,  
 3 because of his knowledge of English. What is the  
 4 best translation that we should use for these  
 5 purposes for that agency?  
 6 THE WITNESS: Spanish Agency for Drugs.  
 7 BY MR. STEWART:  
 8 Q. Okay. So the --  
 9 A. There is the Spanish Agency for Drugs,  
 10 Portugese Agency for Drugs, French Agency for  
 11 Drugs. And they're all controlled by the MA --  
 12 in London.  
 13 THE WITNESS: EMEA.  
 14 THE INTERPRETER: EMEA.  
 15 Q. All controlled by London?  
 16 A. Both London and Brussels.  
 17 Q. So I will refer to the agency, then,  
 18 that we have been -- that we have touched on as  
 19 the Spanish Agency for Drugs -- and Health  
 20 Products?  
 21 A. Or Sanitary Products.

1 several departments of the drug agency, Spanish  
 2 Drug Agency.  
 3 And it's a very complex task. It's  
 4 trying to protect, as the FDA in the U.S. do, the  
 5 health of the Spanish citizens.  
 6 So Ethypharm France would prepare all  
 7 the dossiers and documentation, and then you have  
 8 to be constantly going to the Agency for Drugs in  
 9 order to make sure that this dossier was going  
 10 through all the necessary stages. Was going  
 11 through all the necessary stages. And that was  
 12 what I called my monitoring mission. But I was  
 13 doing this jointly with friends.  
 14 Q. Very good. Okay. I want to spend some  
 15 time with that issue, but I'll come back to that.  
 16 In addition to monitoring registration  
 17 dossiers, what other duties did you have?  
 18 A. I thought you had forgotten about that  
 19 question.  
 20 Q. No.  
 21 A. That was actually my only mission, but

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1 THE WITNESS: Health or Sanitary, it's  
 2 the same thing.  
 3 Q. Thank you for that explanation.  
 4 So one of your duties was monitoring --  
 5 THE WITNESS: Los dossiers.  
 6 MR. STEWART: I'll let you complete my  
 7 question.  
 8 THE WITNESS: Dossiers. The dossiers.  
 9 The registration dossiers.  
 10 THE INTERPRETER: One of his duties was  
 11 the monitoring of the registration and dossiers.  
 12 BY MR. STEWART:  
 13 Q. Would you explain what you mean by  
 14 monitoring registration dossiers?  
 15 A. When you want to commercialize a  
 16 product in Spain, like in any other country, you  
 17 have to present documentation --  
 18 THE WITNESS: Like for registration.  
 19 (Speaking in Spanish.)  
 20 A. -- that is why in order to prove that  
 21 the drug is safe, and it is studied by the

1 I did a lot more.  
 2 Q. I'm sorry, when you say that was your  
 3 only mission --  
 4 THE INTERPRETER: The monitoring.  
 5 Q. The monitoring.  
 6 THE WITNESS: No, no, no. The  
 7 monitoring and the.  
 8 THE INTERPRETER: The registering?  
 9 THE WITNESS: No, no. Finding clients.  
 10 (Speaking in Spanish.)  
 11 A. Find clients to do commercial trade and  
 12 monitoring.  
 13 Q. So finding clients for Ethypharm  
 14 France?  
 15 A. All what it takes to do commercial  
 16 transactions. So -- actions.  
 17 Q. So is it fair to say that you were the  
 18 person with was directly responsible for seeking  
 19 out new clients?  
 20 MR. BOSTWICK: Objection to form.  
 21 A. Yes. Can I answer?

13 (Pages 46 to 49)